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Our Own Thoreau, Hardy John Muir.

John Muir

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It should be clear by now that anyone contemplating a documentary publication should first get sound legal advice from a copyright specialist. Considering the common perception that lawyers mean high legal fees and a labyrinth of legal technicalities, it is not surprising this caveat often goes unheeded. Even major federal funding agencies for documentary editions seemingly have been slow to grasp the magnitude of copyright issues and the implications of the 1978 law. At least they have not, as of this writing, revised grant application guidelines to reflect a need for legal advice. Hopefully it will not take a celebrated lawsuit to educate the profession on literary rights and wrongs.

Four years and two attorneys later, the Muir project staff feel reasonably confident that we have hurdled most of the copyright pitfalls and are well on the way to publication. The fair use doctrine, specifically recognized in the 1978 copyright law, has been of inestimable value in cutting down the search procedure to manageable size. On advice from counsel we have determined that non-profit publication of most of the non-Muir letters and photographs in our collection constitutes fair use. That still leaves a priority list of 120 correspondents and photographers whose works are of sufficient quantity and importance to require further investigation. After compiling as much biographic and genealogic data as possible, we circulated inquiry letters to selected repositories and individuals, seeking possible claimants. This procedure for correspondents to Muir will continue at least until May 30, when we expect to begin filming the correspondence series of the Muir Papers.

Since photographs, by and large, have more monetary value as "collectibles" than scattered letters, there is a higher potential for litigation in this area than is the case with correspondence. Thus photo rights must be checked even more diligently than manuscript rights. Highest on our priority list are large numbers of unpublished photos by any one photographer, all photos published after 1908, and large collections of photos by noted artists such as Watkins, Fiske and Gleason, regardless of date or indication of publication.

We have allotted a four-month period to complete the legal search for photo rights claimants. If we haven't completed the permission process for certain categories of questionable photos by July 1, we may be forced to exclude particular items from publication. By August 1 we expect to have all acceptable photos in the hands of our photo-filmer.

Administrators as well as scholars, documentary editors have many responsibilities that take them far afield from their traditional historical and literary pursuits. Not the least of these obligations is the need to understand the concept of literary rights and all its legal ramifications. To do less is an invitation to litigation. It also may well be a ticket to early retirement. As the naive coed remarked when she heard that a former teacher had been given the title of emeritus professor: "this was an honor he deserved a long time ago."

FROM THE MUIR COLLECTION

(Editor's note: This is the second half of a revealing article published in a San Francisco paper early in 1897. For the first half see the September/December 1983 issue of the John Muir Newsletter.)

He talked of the discovery of the Muir glacier in Alaska very much as one might describe a trip to the top of Mt. Tamalpais, making its hardships and dangers seem like humorous incidents.

"Oh, yes, I was all alone. I would'n have taken anyone else if they'd been fool enough to want to go. Where I crossed the glacier it was about twenty-five miles wide, and I could't make very good time, for I had to look out for fissures, and to drag my sled of provisions. I had a bearskin bag and a rubber blanket that began life as a piano cover, by way of bedclothes, and my sack of hardtack made a sort of extension bed for the extra part of me that hung off the end of the sled at night. I had flour and tea with me, too. Oh, I lived in luxury! Why, one morning I took breakfast in bed. I made a fire with some pieces of wood I'd brought along to use as soles in case my shoes gave out, and over this boiled some snow, so I had a fine hot cup of tea and my hardtack as comfortably as if they'd been brought up to me on a tray. You don't want to be bothered with much lumber on a trip like that. I went up Mt. Tacoma with a party of young fellows who took enough tin pans and provisions to load four beasts, and then asked permission to tie a few coffee pots onto my horse and a frying pan or so to William Keith's. There were hams enough for a regiment, and the hard boiled eggs, put end to end, would have reached to British Columbia. Every hour or so we walked into some yellow jackets, and then these beasts would kick till the pans covered the earth on every side in a replendent circle. You never saw a [more] glorious glitter! I'd go botanizing while they reloaded. Of course the provisions spoiled and made us all deadly sick. Whew! And the man who brought the stuff was the sickest of all. We weren't sorry when that was over."

"And what is your next trip to be?" I asked, conscious of a sudden warmth for the comforts of home and civilization.

"I don't know. I must have another summer in Alaska, and then there's Mount St. Elias, though I doubt if I ever get up that. After all, there's a good deal to learn at the foot of it, and even that is hard enough to get to. Still, you can't help wanting to get to the top of things, just to see what the Lord has done. When the hot weather comes I can't help it--I've got to left up my heels unto the hills. Yes, I go alone--when I can't get any one to go with me. Last summer I had company enough, for I traveled about from the Yellowstone to Arizona with the Forestry Commission. Next year--I don't know. I can't tell."

Some one who was wise about trees brought up the subject of conifers, and John Muir's face lighted up as a young mother's does when you ask about the baby. He brought out boughs and twigs of every descripti[on], patted and stroked them, held them up to the light and made affectionate little jokes about them.

"How is that for a great raw-boned specimen? Why, some one has called that tree a regular brute--its tenderest little twig is an inch thick. But think of calling anything nature has made a brute! See how fine this is--it's the same tree you see up there in that painting, though that ought have a sharper outline. Still, it's pretty close to it for an artist--they never care about things. Just look at these little cones. Did you ever see anything lovelier?"

I looked with an air of wisdom at two little brown wads on a gummy stem and agreed that nothing could be lovelier. Photographs and drawings were brought out, long words rattled about like hail and the air was full of valuable information for one who knew the language of conifers. But when I asked what was the next book to follow "The Mountains of California" John Muir became silent and depressed.

"Reading about a thing isn't the same as seeing it," he said, uncomfortably. "Books are unnatural things, anyway. I don't know whether I shall write any more or not."

The truth is, though John Muir can spend days and weeks in tireless pursuit of "what the Lord has done." and though he can fill numberless little blank books with notes and drawings as he goes along, and though he has a charming style, easy and humorous, he hates the labor of putting his work in shape for publication. His head is full of the most fascinating stories, and he loves to tell them, but when anything is said about writing them out, an uneasy look crosses his face, and he has even been known to become slightly deaf when the subject was insisted on. He had in progress a book on life in the Sierra, a pleasant, rambling account of his experiences there, and the story of a raven who lived up back of the Muir glacier has also been begun, but they lag strangely. Yet there are publishers ready and eager for them. Think of that, you rising Marion Crawfords, who grind out your works by the thousand words, and care for nothing in the world but your printed signature at the end, or the money in your pocket! John Muir has looked at life through field glasses for so long that he has little sympathy with the narrow, walled-in horizon of those who cling to the cities. Neither wealth nor fame mean anything to him. He has not even the vanity of wanting to be the first to find or climb or explore, a vanity which even the great Tyndall confessed to.

"I don't care who has been up a mountain before me, so long as I get to the top myself," John Muir says.

That expresses his whole attitude, for one realizes that here is a man who does things for their own sake rather than for the gratification of having done them; to whom the importance of knowledge lies in its own secrets, rather than in his possession of them; a kindly man in whom woods and fields have developed a certain attractive simplicity,--and yet withal a very canny Scot.

JOHN MUIR NEWSLETTER
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